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HUMAN RIGHTS COMMITTEE

Fifty-seventh session

SUMMARY RECORD OF THE 1530th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 26 July 1996, at 10 a.m.

Chairman: Mr. AGUILAR URBINA

later: Mr. BÁN

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GE.96-17479 (E)

The meeting was called to order at 10.20 a.m.

STATEMENT BY THE CHAIRMAN

1. The CHAIRMAN said that, since he and Mr. El Shafei would be leaving the meeting early to attend a press conference, he wished to take the opportunity to thank the members of the Committee, the secretariat, NGOs and the specialized agencies for their assistance during the current session. He wished to express particular gratitude to Mr. Jacob Moller, who would be retiring from the Centre for Human Rights in September. Mr. Moller was one of the finest jurists the United Nations system had known and was irreplaceable.

2. Mr. MAVROMMATIS said he too wished to express his personal thanks to Mr. Moller, whom he had known for nearly 30 years. Mr. Moller's contribution to the cause of human rights in general, and to the matter of communications in particular, was incalculable.

ANNUAL REPORT OF THE COMMITTEE TO THE GENERAL ASSEMBLY THROUGH THE ECONOMIC AND SOCIAL COUNCIL UNDER ARTICLE 45 OF THE COVENANT AND ARTICLE 6 OF THE OPTIONAL PROTOCOL (agenda item 8) (continued)

Chapter VIII. Consideration of communications under the Optional Protocol (CCPR/C/57/CRP.1/Add.6/Parts I and II)

3. The CHAIRMAN invited the Committee to adopt the text of chapter VIII on a paragraph-by-paragraph basis.

4. Mrs. CHANET (Rapporteur) said that she had been unable to study the document before it had been printed. She therefore had a number of amendments to propose, on her own behalf and that of Mr. Pocar, in addition to those contained in document CCPR/C/57/CRP.1/Add.6/Part II.

Paragraph 1

5. Paragraph 1 was adopted.

Paragraph 2

6. Mrs. CHANET (Rapporteur) drew attention to the amendment contained in document CCPR/C/57/CRP.1/Add.6/Part II.

7. Paragraph 2, as amended, was adopted.

Paragraphs 3 and 4

8. Paragraphs 3 and 4 were adopted.

Paragraph 5

9. Mrs. CHANET (Rapporteur) drew attention to the amendment contained in document CCPR/C/57/CRP.1/Add.6/Part II.

10. Paragraph 5, as amended, was adopted.

Paragraphs 6-8

11. Paragraphs 6-8 were adopted.

Paragraph 9

12. Mrs. CHANET (Rapporteur) said that the missing statistics would be added in the final version.

13. Paragraph 9, as amended, was adopted.

Paragraph 10

14. The CHAIRMAN announced that the number of new communications would be included in the final text. In view of the ongoing United Nations financial crisis, it might be better to omit the references to a need for additional staff and resources from the last sentence.

15. Lord COLVILLE said that, while he took the Chairman's point, he was concerned at the ever-increasing delay in the Committee's consideration of communications. While rule 86 of the rules of procedure authorized the Committee to ask countries to postpone carrying out their sentences, he feared that the increased number of communications, if not accompanied by an increase in staff and resources, would allow those delays to stretch into years and would damage the Committee's credibility. He hoped that the Committee would, at least, be able to discuss other ways of speeding up the communications process.

16. Ms. EVATT said that the Committee needed to find a way of identifying cases whose admissibility and merits could be addressed at the same time, thus streamlining the process for both the secretariat and the Committee.

17. Mr. MAVROMMATIS said he tended to agree with the Chairman that the Committee must not appear unrealistic in a time of financial crisis. However, perhaps a statement could be made to the effect that, while the Committee was doing what it could to expedite its procedures, it expected the secretariat to take measures to improve the situation as soon as possible.

18. Mr. ANDO said Mr. Mavrommatis' point was a good one. He noted that in paragraph 16 of document CCPR/C/57/CRP.1, which the Committee had adopted the previous day, the Committee expressed the hope that the specialized staff assigned to service it in monitoring State party reports and considering communications would be increased. In the interests of consistency, the language of paragraph 10 should be toned down.

19. The CHAIRMAN said it seemed particularly unrealistic to request increased resources in view of the anticipated lay-offs in the secretariat.

20. Mr. FRANCIS said that, while it might be inappropriate in the current financial climate for the Committee to request increased resources, it should at least note that members of its current staff were already working overtime and at jobs other than their own, and request an assurance that no key personnel in the Centre for Human Rights would be dismissed from their jobs.

21. Mrs. CHANET (Rapporteur) said that, since the Committee had requested an increase in its resources in every previous annual report, it might be unwise for it to ask only that there should be no change in the status quo. She suggested that the request for a substantial increase in the number of staff should be replaced by a request that the Committee should be provided with staff specialized in the various legal systems and a statement that work under the Optional Protocol continued to suffer as a result of insufficient secretariat resources.

22. Paragraph 10, as amended, was adopted.

Paragraph 11

23. Mrs. CHANET (Rapporteur) said Mr. Pocar had proposed changing the title of section C (paras. 11-13) to "Methods of work under the Optional Protocol". He had also suggested putting the references to the Special Rapporteurs in the last two sentences of paragraph 11 in the singular and reversing the position of the words following "In some cases" in the first of those two sentences and those following "Regarding other communications" in the second. Finally, he had suggested adding the following sentence to the end of the paragraph: "In that regard, the Committee stated at its fifty-fifth session that the Special Rapporteur's competence to adopt and, when necessary, withdraw requests for interim measures in implementation of rule 86 of the rules of procedure would continue until the Working Group on Communications was seized of the question of admissibility; when the Committee was not in session, that competence would be exercised by the Chairman until such time as the Working Group on Communications was seized of the matter in consultation, if necessary, with the Special Rapporteur".

24. Paragraph 11, as amended, was adopted.

Paragraph 12

25. Mrs. CHANET (Rapporteur) drew attention to the proposed amendment contained in document CCPR/C/57/CRP.1/Add.6/Part II.

26. Paragraph 12, as amended, was adopted.

Paragraphs 13-20

27. Paragraphs 13-20 were adopted.

Paragraph 21

28. Mrs. CHANET (Rapporteur) said that the words "appeal instance" did not convey the Committee's meaning, which was that it was not an instance of final resort under domestic law. The text should be amended accordingly.

29. Paragraph 21, as amended, was adopted.

Paragraph 22

30. Paragraph 22 was adopted.

Paragraph 23

31. Mr. KLEIN said that there had been various cases in which the Committee had not insisted on the exhaustion of domestic remedies if the State party had raised no objection on that point. The fact that a State party was entitled to waive that requirement should be reflected in paragraph 23.

32. Paragraph 23 was adopted on that understanding.

Paragraph 24

33. Paragraph 24 was adopted.

34. Mrs. CHANET (Rapporteur) drew attention to the proposed new paragraph on decisions relating to considerations ratione temporis, to be added after paragraph 24. The text was contained in document CCPR/C/57/CRP.1/Add.6/Part II.

35. The CHAIRMAN said he took it that the Committee wished to adopt the new paragraph.

36. It was so agreed.

Paragraph 25

37. Mr. LALLAH, referring to the penultimate sentence of the paragraph, asked whether there were cases in which a stay of execution had not been granted in response to the Committee's request.

38. Mr. SCHMIDT (Centre for Human Rights) said there had been a few such cases.

39. Mr. LALLAH said that if the penultimate sentence was not correct, it should be deleted.

40. Mr. SCHMIDT (Centre for Human Rights) said the sentence was not incorrect since the Committee's requests for stays of execution had been honoured in a number of cases.

41. Mr. PRADO VALLEJO said the sentence could be amended to reflect the fact that the Committee's requests had been refused in one or two cases.

42. Lord COLVILLE suggested the following wording: "Stays of execution have, with some unfortunate exceptions, normally been granted in this connection."

43. Mr. BUERGENTHAL said it would be better not to mention cases where States parties had not honoured the Committee's requests since the point of the sentence was to encourage compliance.

44. Lord COLVILLE suggested that the last sentence of the paragraph should be amended to include cases of imminent deportation.

45. The CHAIRMAN said he took it that the Committee wished to leave the penultimate sentence of paragraph 25 unchanged and to add a reference to imminent deportation in the last sentence.

46. Paragraph 25, as amended, was adopted.

Paragraph 26

47. Mr. BUERGENTHAL suggested that the word "enforced" should be added before "disappearances".

48. Paragraph 26, as amended, was adopted.

Paragraphs 27 and 28

49. Paragraphs 27 and 28 were adopted.

Paragraph 29

50. Mr. BRUNI CELLI said that the word "fully" should be deleted from the first sentence of the paragraph.

51. Paragraph 29, as amended, was adopted.

Paragraphs 30-33

52. Paragraphs 30-33 were adopted.

Paragraph 34

53. The CHAIRMAN noted that paragraph 34 was set out in square brackets.

54. Mr KRETZMER said that he had discussed paragraph 34 with the Rapporteur. As it stood, it only took account of the cases mentioned. Earlier in the report, however, the case of Johnson v. Jamaica was taken up. It should also be mentioned, therefore, and the Committee's decision on it specified. He believed that that decision was somewhat different from what had been decided in previous cases.

55. Mrs. CHANET (Rapporteur) said that that was why the paragraph was in square brackets. A new sentence would need to be added for the new case.

56. Mr. POCAR said that the jurisprudence referred to in the paragraph concerned a prolonged stay on death row, not prolonged judicial proceedings.

57. The CHAIRMAN said that that was the wording used in the Johnson case. When the Committee had decided to clarify the position, it had used the Johnson v. Jamaica formulation. Some members of the Committee who had not previously offered a dissenting opinion had felt themselves obliged to do so in that case.

58. Mr. POCAR said that the matter discussed in the paragraph was whether detention due to prolonged judicial proceedings could constitute torture. To say that prolonged judicial proceedings did not per se constitute that kind of treatment sounded very strange.

59. Mr. KLEIN concurred, and suggested that the Committee might look at the decision adopted in the case.

60. Mr. SCHMIDT (Centre for Human Rights) said that, unfortunately, the wording of paragraph 34 reflected the decisions mentioned at the end of the paragraph. That passage reflected the majority opinion expressed during the examination of the merits of Barrett and Sutcliffe v. Jamaica in 1992.

61. Mr. LALLAH said that there was perhaps a tendency in the Committee to re-argue opinions. Anyone reading the paragraph in good faith would see from the first sentence that what the Committee was concerned about was the length of judicial proceedings which might lead to a prolonged stay on death row.

62. Mrs. CHANET (Rapporteur) read out the passage from the examination of the merits in Barrett and Sutcliffe v. Jamaica, in which the Committee further reiterated that prolonged judicial proceedings do not per se constitute cruel, inhuman and degrading treatment, even if they might be a source of mental strain and tension for detained persons. That opinion was part of the Committee's jurisprudence.

63. Mr. POCAR said that, in that case, he was content to remain in the minority.

64. Ms. EVATT said that she would prefer to leave out the phrase "even if they might be a source of mental strain and tension for detained persons".

65. Mr. BHAGWATI asked whether the paragraph covered a situation in which prolonged detention on death row occurred otherwise than through prolonged judicial proceedings.

66. Mr. PRADO VALLEJO said that he supported the paragraph.

67. Mr. MAVROMMATIS observed that the Committee was discussing cases out of context. It should not repeat its earlier discussions.

68. Mr. KRETZMER said that he simply wished to be sure whether the exact wording used in Barrett and Sutcliffe v. Jamaica in 1992 had been used in the cases mentioned in the paragraph.

69. The CHAIRMAN said that that would be checked and the name of Errol Johnson would be added.

70. Paragraph 34 was adopted on that understanding.

Paragraphs 35-39

71. Paragraphs 35-39 were adopted.

Paragraph 40

72. The CHAIRMAN said that the names in case No. 505/1992 would be added.

73. Paragraph 40 was adopted on that understanding.

Paragraphs 41-45

74. Paragraphs 41-45 were adopted.

Paragraph 46

75. Mr. BÁN said that the Committee had had before it at the current session a number of cases claiming discrimination in compensation. He suggested that a text should be added to the paragraph to the effect that, in cases Nos. - the names of the three cases concerned being inserted, the Committee had had to deal with discrimination in the compensation accorded for past violations of human rights. It had been of the opinion that although the State party was not under a duty to provide compensation for cases that occurred prior to the entry into force of the Covenant, if compensation was provided it must not be discriminatory. On that basis, the Committee had found a violation in two of the cases.

76. Mr. POCAR asked whether Mr. Bán intended to refer to violations of all kinds. He wondered whether such a wide formulation was prudent.

77. Mr. SCHMIDT (Centre for Human Rights) pointed out that there had been a paragraph to the same effect in the previous annual report.

78. Paragraph 46, as amended, was adopted.

Paragraph 47

79. Mr. KLEIN wondered whether it was appropriate to include the words "and to bring to justice those responsible for her disappearance, notwithstanding any domestic amnesty legislation to the contrary" at the end of the first passage quoted.

80. Mr. LALLAH said that paragraph 47 concerned the Committee's jurisprudence under the Optional Protocol and the finding quoted was exactly what the Committee had said.

81. Mr. BRUNI CELLI suggested that other examples of remedies should be included, such as early release or the commutation of sentences. He thought it was too limiting to refer only to one investigation into a forced disappearance.

82. Mr. POCAR felt that the first sentence of paragraph 47 minimized somewhat the value of the Committee's views and should be deleted. The second sentence should start "After the Committee has made a finding on the merits under article 5, paragraph 4, of the Optional Protocol, it proceeds ...".

83. The CHAIRMAN said that the example chosen was a decision that had been adopted in New York regarding Celis Laureano v. Peru. He noted that Mr. Bruni Celli had suggested that more examples should be included in the paragraph.

84. Mrs. CHANET (Rapporteur) said that she was prepared to suggest an assortment of examples, with a view to showing the variety of the Committee's findings.

85. Paragraph 47, as amended, was adopted.

New paragraph 47 (a)

86. Mrs. CHANET (Rapporteur) read out the new paragraph 47 (a), which would appear under the title "Effective remedy provided by State party during examination of a communication". It had been drafted by the secretariat:

> "The sense of the procedure established under the Optional Protocol is anthropocentric. It aims at helping victims rather than condemning States parties for violations of the Covenant. The Committee therefore welcomes the early cooperation by States parties in finding solutions to human rights problems.
>
> Communication No. 655/1995 was submitted by an individual, born in 1949 in Ireland, as a British citizen. In 1954, at the age of five, he emigrated to Australia with his parents. He had his schooling in Australia and in 1967 joined the Australian army, in which he served four years, including service in Viet Nam, where he was wounded. He had not formally applied for Australian citizenship. In 1981 he left the country in order to travel. When he wished to take up his residence in Australia again in 1990 he was refused, since he was not a citizen and had been outside the country for longer than five years. On 16 May 1995 the author addressed a communication to the Human Rights Committee, claiming to be a victim of a violation by Australia of the right to enter one's own country. The communication was transmitted to the State party on 15 September 1995. In its submission of 3 May 1996, the State party informed the Committee that it had given the communication close consideration and that on 8 March 1996 the Australian High Commission in London granted him a Former Resident (Class 151) visa which will allow for the author's return to Australia as a permanent resident. The Committee expresses its satisfaction over the cooperation of the State party and the prompt remedy provided."

87. Mr. BUERGENTHAL said the first sentence should be simplified to read "The procedure established under the Optional Protocol aims at protecting the rights of victims rather than condemning States parties".

88. Ms. EVATT said that she had been about to propose deleting the sentence altogether, but would gladly endorse Mr. Buergenthal's proposal.

89. Mr. BUERGENTHAL said that in the ninth sentence the word "entry" should be inserted after "refused".

90. Lord COLVILLE said that the words "as a British citizen" in the fourth sentence should be deleted.

91. Mr. KRETZMER wondered whether the term "remedy" could be used when it had not been established that there had been a violation. It might be better to speak of the effective solution provided by the State party.

92. Mr. POCAR said that he must insist on retaining "remedy". Article 4, paragraph 2, of the Optional Protocol used that term.

93. Mrs. CHANET (Rapporteur) asked whether the Committee had in fact taken a decision in the case. If it had not, it could not speak of a "prompt remedy". The use of the word "solution" would avoid the problem, but it might be better if the Committee were to wait until the following year to include a section of the kind being discussed in its report.

94. Mr. POCAR said that the last sentence of the paragraph could perhaps be changed so as to refer to article 4, paragraph 2, of the Optional Protocol and to say what was in fact the article's exact intent: namely that, on being informed of the communication, the State party had provided a remedy.

95. Ms. EVATT agreed with Mr. Pocar. She suggested that the term "solution" should be used in the title and in the first part of the paragraph, and in the closing sentence the Committee should thank the State party for providing information about the remedy it had produced.

96. Mrs. CHANET (Rapporteur) said that if the Committee was satisfied that the case had been fully resolved, she could support Mr. Pocar's suggestion, on the understanding that the case had been discontinued.

97. Mr. KRETZMER and Mr. MAVROMMATIS endorsed Mr. Pocar's suggestion.

98. Mr. PRADO VALLEJO asked whether there had been a final decision on the communication.

99. Mrs. CHANET (Rapporteur) said that it might not be appropriate to refer to the communication in a public document if there had been no formal decision by the Committee.

100. Mr. de ZAYAS (Centre for Human Rights) said that it had always been the practice, at the end of a session, for the Committee to go through the summary checklist of communications and formally discontinue a number of cases. That had been done in the case of communication No. 665/1995. There was as yet no written decision of discontinuance but the Committee might wish to make the oral decision public. He recalled that in the case of Wachsman v. Uruguay there had been a formal decision to discontinue. The case had been regarded as one of the Committee's successes as the State party had cooperated before any views had been adopted on the communication. The Committee had wished at that time to announce that it had received cooperation from the State party.

101. The CHAIRMAN said that the communication could be made public in view of the Committee's decision to discontinue taken at the previous meeting. Since there had been a formal decision of the Committee, he believed that Mr. Pocar's suggestion could be adopted.

102. Paragraph 47 (a), as amended, was adopted.

Paragraph 48

103. Lord COLVILLE, noting that paragraph 48 referred to non-cooperation by Togo, said that a communication from three persons from Togo had been dealt with at the current session. A reference to that fact should perhaps be included in the report.

104. Mrs. CHANET (Rapporteur) said that she had taken note of Lord Colville's suggestion and would verify the occasion on which the communication had been taken up.

105. Mr. BUERGENTHAL said the language should be strengthened. He suggested that the sentence should be revised to read: "During the period covered by this report, the following States have failed to cooperate in the Committee's consideration ...". He inquired whether Peru, Togo and Zaire had failed to cooperate in only one case; otherwise, the number of cases should be indicated.

106. Mr. POCAR said it was important to make it clear whether the paragraph referred only to communications on which final decisions had been taken.

107. Mr. de ZAYAS (Centre for Human Rights) said that matter would be checked.

108. Mr. MAVROMMATIS said that the paragraph should differentiate between "pending" communications and communications on which final decisions had been taken.

109. The CHAIRMAN said the paragraph addressed the matter of rule 91 of the rules of procedure, not that of follow-up. The inclusion of the word "pending" in an appropriate place would resolve that problem. The secretariat could be entrusted to produce a final text.

110. Paragraph 48 was adopted on that understanding.

111. Document CCPR/C/57/CRP.1/Add.6/Part I, as a whole, as amended, was adopted.

Chapter IX. Follow-up activities under the Optional Protocol (CCPR/C/57/CRP.1/Add.7/Part I)

112. Mrs. CHANET (Rapporteur) said she would read out the amendments proposed by members of the Committee at the appropriate point.

Paragraphs 1-3

113. Paragraphs 1-3 were adopted.

Paragraph 4

114. Mrs. CHANET (Rapporteur) drew attention to a new draft paragraph 4, contained in document CCPR/C/57/CRP.1/Add.7/Part II, which had been circulated to the members of the Committee.

115. New draft paragraph 4 was adopted.

Paragraph 5

116. Paragraph 5 was adopted.

Paragraph 6

117. Mrs. CHANET (Rapporteur) said the following amendments had been proposed to the country-by-country breakdown of follow-up replies.

118. With regard to Argentina, the words "satisfactory follow-up ... 27 September 1995" should be replaced by "[See paragraph ... below]".

119. With regard to Cameroon, in the second sentence "were" should be replaced by "should be" and "fifty-seventh" should be replaced by "fifty-eighth".

120. With regard to Ecuador, in the second sentence "were" should be replaced by "should be", and "fifty-seventh" should be replaced by "fifty-eighth".

121. With regard to Madagascar, the second sentence should be replaced by the sentence "Follow-up consultations with the Permanent Mission of Madagascar will be conducted during the fifty-eighth session".

122. With regard to Nicaragua, the second sentence should be replaced by the sentence "Follow-up consultations with the Permanent Mission of Nicaragua will be conducted during the fifty-eighth session".

123. With regard to Peru, the second sentence should be replaced by the sentence "Follow-up consultations were conducted during the fifty-seventh session".

124. With regard to Senegal, the last sentence should be replaced by the sentence "Further satisfactory follow-up replies, dated 15 July 1996, indicate that compensation will be paid to the victim [see paragraph ... below]".

125. With regard to Spain, the words "follow-up reply ... State party" should be replaced by "follow-up reply dated 30 June 1996 challenges the findings of the Committee".

126. With regard to Venezuela, the word "satisfactory" should be deleted.

127. Finally, with regard to Zambia, in the last sentence "were" should be replaced by "will be" and "fifty-seventh" should be replaced by "fifty-eighth".

128. Mr. POCAR suggested that, with regard to the Libyan Arab Jamahiriya, in the second sentence "should" should be replaced by "will".

129. Paragraph 6, as amended, was adopted.

Paragraphs 7-16

130. Paragraphs 7-16 were adopted.

Paragraphs 17 and 18

131. After an exchange of views by Mr. POCAR and Mr. SCHMIDT (Centre for Human Rights), Mrs. CHANET (Rapporteur) proposed that the first part of paragraph 18, ending with the word "possible", should be moved to the end of paragraph 17. Paragraph 18 should consist of the second part, commencing with the words "The Committee expresses ...".

132. Paragraphs 17 and 18, as amended, were adopted.

Paragraphs 19-31

133. Paragraphs 19-31 were adopted.

134. Mr. Bán took the Chair.

Paragraph 32

135. Mrs. CHANET (Rapporteur) said it had been proposed that the title of the section (paras. 32-38) should be amended to read: "Positive examples of follow-up cooperation/replies during the reporting period".

136. It was so agreed.

137. Mrs. CHANET (Rapporteur) said that, with a view to treating States parties equally, it had been proposed that the reply of the Tasmanian Government, currently indented and in quotation marks, should be reflected in reported speech. In the fourth sentence of the second paragraph in quotation marks the word "Act" should be replaced by "legislation".

138. Ms. EVATT considered that the author's decision to make use of new legislation to challenge the validity of the relevant sections of the Tasmanian Criminal Code was an auspicious development.

139. Paragraph 32, as amended, was adopted.

Paragraphs 33-35

140. Paragraphs 33-35 were adopted.

New paragraph 36

141. Mrs. CHANET (Rapporteur) drew attention to a new draft paragraph 36, contained in document CCPR/C/57/CRP.1/Add.7/Part II.

142. New paragraph 36 was adopted.

New paragraph 37

143. Mrs. CHANET (Rapporteur) read out the following new draft paragraph 37: "During the fifty-second session in October 1994, the Committee adopted Views on Communication No. 386/1989 (Famara Koné v. Senegal), finding a violation of article 9, paragraph 3, and recommending that compensation be awarded to the author. By submission dated 26 June 1995, the State party promises information upon the conclusion of thorough investigations into the victim's case. After a reminder addressed to the State party in February 1996, the State party, by submission of 15 July 1996, informed the Committee that the President of Senegal gave instructions to the State party's Minister of Justice to make an ex gratia payment to Mr. Koné, as compensation for the duration of his pre-trial detention."

144. New paragraph 37 was adopted.

New paragraph 38

145. Mrs. CHANET (Rapporteur) read out the following new draft paragraph 38: "During the fifty-third session (March-April 1995), the Committee adopted its Views on Communication No. 400/1990 (Monaco de Gallicchio v. Argentina), finding a violation of article 24, paragraphs 1 and 2, of the Covenant and recommending the payment of compensation to the author and her granddaughter. In two follow-up submissions dated August and 27 September 1995, the State party indicates that, by judgment of 30 August 1995, a Federal Judge ordered the police authorities to lift the prohibition to leave the country vis-à-vis the victim's granddaughter and to expedite the delivery of a federal identity card and a passport. The State party adds that with this decision, the victim's granddaughter ceases to be under the legal authority of the court and is placed under the author's guardianship. No reference is made in the State party's submission to the issue of compensation."

146. Mr. POCAR inquired, in that context, why the word "satisfactory" had been deleted from the part of paragraph 6 that concerned Argentina.

147. Mrs. CHANET (Rapporteur) said the State party's response had been considered unsatisfactory on the basis of its failure to award compensation. Paragraph 6 therefore referred the reader to the paragraph currently under discussion, which provided clarification.

148. Mr. MAVROMMATIS said that he took "satisfactory" to mean substantial compliance. Compensation was rarely awarded in custody cases; nor was there evidence that the author had sought compensation.

149. Mr. SCHMIDT (Centre for Human Rights) said that paragraph 38 had been included among the positive examples for the reasons cited by Mr. Mavrommatis. The author, who had requested legal guardianship of her granddaughter, had expressed delight at the Committee's decision. After the Committee had adopted its views in March 1995, the State party had accelerated the proceedings that had been instituted to reverse the custody and guardianship decisions, and the matter had been resolved within three months.

150. Mrs. CHANET (Rapporteur) suggested, in the light of that explanation, that the text she had read out, minus the final sentence, should be included among the positive examples of follow-up cooperation. The relevant part of paragraph 6, deleted earlier in the discussion, would be reinstated.

151. It was so decided.

Existing paragraph 38

152. Mr. BRUNI CELLI inquired whether Jamaica had provided a positive reply in any of the cases noted.

153. Mr. MAVROMMATIS said that although Jamaica had shown an encouraging spirit of cooperation, it had not yet informed the Committee of the measures it had taken with regard to a number of violations under article 7, paragraph 14, concerning compensation to victims, and article 6, concerning the commutation of sentences.

154. Paragraph 38 was adopted.

Paragraph 39

155. Mr. POCAR noted some ambiguity in the drafting. The two sentences should be streamlined.

156. Paragraph 39 was adopted on that understanding.

Paragraph 40

157. Paragraph 40 was adopted.

Paragraph 41

158. Mrs. CHANET (Rapporteur) said that following amendments at the final stage of drafting, and notably in response to a suggestion by Mr. Buergenthal, the original text should be replaced by:

> "41. The Committee reconfirms that it will keep the functioning of the follow-up procedure under regular review.
>
> "42. The Committee regrets that its recommendation, in the annual report for 1995, to the effect that at least one follow-up mission each year be budgeted and scheduled by the Centre for Human Rights has not been followed up by the Centre. The Committee urges the Centre to budget and schedule at least one follow-up mission for 1997."

159. The new text was adopted.

160. The draft annual report of the Human Rights Committee as a whole (CCPR/C/57/CRP.1 and Add.1-7), as amended, was adopted.

SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 3) (CCPR/C/57/1)

161. The CHAIRMAN said that, since the submission of the document before the Committee, three additional reports had been received, from Lebanon, Colombia and the Congo. The Bureau recommended consideration, at the fifty-eighth session, of: the third periodic report of Peru (continued); the special report of the United Kingdom of Great Britain and Northern Ireland on Hong Kong; the initial report of Switzerland; the initial report of Gabon; the third periodic report of Denmark; and the fourth periodic report of Germany. The reserve list would include the reports of India (third) and Georgia (initial).

162. The composition of the Working Group on article 40 was: Mr. Aguilar Urbina, Mr. Bhagwati, Lord Colville and Mr. Francis. The composition of the Working Group on Communications was: Mr. Bán, Mr. El-Shafei, Ms. Evatt, Mr. Mavrommatis and Ms. Medina Quiroga.

163. The Bureau further recommended that at its fifty-ninth session, the Committee should consider: the initial report of Georgia; the second periodic report of Lebanon; the second periodic report of Bolivia; the third periodic report of India; the third periodic report of France; and the fourth periodic report of Colombia. The reserve list would include the fourth periodic report of Belarus and the special report of Portugal on Macau.

164. A list of names for the two working groups for the fifty-ninth session had been circulated. The Bureau recommended that a final decision should be taken at the fifty-eighth session.

165. Lord COLVILLE expressed the hope that Portugal would endeavour to follow the course taken by the United Kingdom in respect of Hong Kong and report fully, inter alia, on the arrangements it was seeking to make with the People's Republic of China in respect of Macau, which would come under the sovereignty of the latter State in 1999.

166. The CHAIRMAN said that that concern could be reflected in the list of issues to be prepared by the Working Group.

167. He took it that the Committee wished to endorse the recommendations he had mentioned.

168. It was so decided.

ORGANIZATIONAL AND OTHER MATTERS (continued)

169. At the invitation of the Chairman, Ms. EVATT reported on her preliminary contacts, during the inter-sessional period, with the Committee on the Elimination of Discrimination against Women (CEDAW), which were the subject of a brief document circulated informally. Those contacts were promising: if members so desired, she would pursue them further, notably in order to examine the exemplary cooperation that the Committee received from NGOs. More specifically, the International Women's Rights Action Watch coordinated a great deal of national NGO efforts to provide relevant material; it produced

for every session of the Committee an "alternative" report on countries considered by the Committee, and it often arranged for meetings to take place during CEDAW sessions, bringing women from different countries to meet and discuss questions with members. She knew from personal experience that that relationship was most productive.

170. Through the good offices of Mrs. Klein-Bidmon (Centre for Human Rights), contact had also been established with the Division for the Advancement of Women, which provided secretariat services for CEDAW. One hoped-for consequence would be the production for the Human Rights Committee of information concerning the status of women in countries whose reports were to be examined. That contact, too, would be pursued as the work of drafting the general comment on article 3 of the Covenant progressed.

171. She hoped that other members of the Human Rights Committee might undertake on a voluntary basis to make similar mutual information arrangements with other treaty bodies and report thereon, preferably in writing, to their colleagues. Likewise, she hoped that the Committee would be encouraged by the example she had cited to facilitate and make greater use of input from NGOs.

172. Mr. BHAGWATI inquired whether the Working Group on article 40 might not find ways and means of meeting representatives of NGOs during its preparatory meetings before sessions of the Committee. He understood that such arrangements were made in other treaty bodies.

173. Ms. EVATT stressed that what she had essentially in mind was voluntary initiatives on the part of Committee members.

174. The CHAIRMAN endorsed Ms. Evatt's remarks, which might perhaps be considered further in the course of the fifty-eighth session.

175. Mr. ANDO suggested that the matter could be pursued at the Committee's informal meeting.

176. Mr. KRETZMER recalled that, in accordance with a proposal made by himself and supported by Ms. Evatt at its fifty-fifth session, the Committee had requested from the secretariat a report on the pros and cons of holding sessions in New York. That report had not yet materialized, but the question seemed to him to be increasingly pertinent.

177. Mr. BRUNI CELLI suggested that when it discussed its methods of work informally, the Committee might also discuss what was to be done about communications scheduled for consideration which it had not been able to take up owing to lack of time.

178. In response to observations made by Mr. BUERGENTHAL, Mr. MAVROMMATIS and Ms. EVATT, the CHAIRMAN said he took it that Committee members wished to adjourn the meeting and resume as a working group of the whole until the closure of the session.

179. It was so decided.

The meeting rose at 12.35 p.m.